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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,478	07/24/2003	George H. Lerg	TRAPTEC-13	4216
27189	7590	07/06/2005	EXAMINER	
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP			LEE, BENJAMIN C	
530 B STREET			ART UNIT	
SUITE 2100			PAPER NUMBER	
SAN DIEGO, CA 92101			2632	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,478

Applicant(s)

LERG ET AL

Examiner

Benjamin C. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 73-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 73-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Status

1. Claims 73-84 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 73-77 and 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nesbitt (US pat. #6,150,927) in view of Turner (US pat. #6,002,326).

1) Regarding claims 73 and 77:

Nesbitt discloses a method of sonically detecting a graffiti-making act (surface-defacing and vandalizing in the form of scratching made on a hard surface according to Abstract; col. 1, line 9 and col. 6, lines 38-59, when done in certain shapes/designs/patterns, constitutes graffiti-making act), comprising: providing a graffiti-making act detection system to sonically detect a graffiti-making act (Abstract; col. 3, lines 39-42 and col. 5, lines 14-21 whereby direct vibration detection is "preferred" but nevertheless teaches sonic-through-the-air detection as one embodiment, and element 16 of Fig.6) and a camera to obtain one or more images of a perpetrator of the graffiti-making act (col. 3, lines 6-17; col. 5, lines 22-25; col. 7, lines 56-58); locating the graffiti-making act detection system and the camera near a structure prone to receiving graffiti (the environment of interest, in this case the vehicle); sonically detecting with said graffiti-making act detection system a graffiti-making act and obtaining one or more images

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of the perpetrator of the graffiti-making act and recording them using the camera ((see above citations); except specifying the claimed transmitting the one more images of the perpetrator of the graffiti-making act to one or more remote entities; while:

Turner teaches in the same anti-vandalism detection and reporting art the transmission of images of the perpetrator of the vandalism act to one or more remote entities (Abstract and Figs. 1 and 4).

Since Nesbitt discloses the remote report transmitting of detected vandalism conditions including graffiti-making act to remote entities (Fig. 6) and Turner teaches the claimed transmitting images of the perpetrator of the vandalism act to remote entities, in view of the two teachings, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to include transmission of the one ore more images of the perpetrator as taught by Turner in a system such as taught by Nesbitt so that near-real time monitoring of the images can be done at the remote entities while allowing image recordation for improved security by allowing more immediate assessment and response of the monitored situation.

2) Regarding claim 74, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 73, including:

--the claimed wherein the camera is a video camera ("video recorder" in combination with "camera" of col. 3, lines 15-16 of Nesbitt; line 8 in the Abstract of Turner).

3) Regarding claim 75, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 74, except:

--specifying the claimed infrared video camera.

However, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to chose an infrared video camera as a specific video camera in Nesbitt and Turner to anticipate low lighting environments that a car, the environments of the system, sometimes encounters, such as in lowly lit parking streets, parking lots, garages, etc. since infrared video camera captured images have better visibility at such low lighting environments.

4) Regarding claim 76, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 73, including:

--the claimed wherein the perpetrator of the graffiti-making act is monitored using the camera (see consideration of claim 73 above, plus Abstract of Turner).

5) Regarding claim 79, Nesbitt and Turner render obvious all of the claimed subject matter as in the consideration of claim 73, including:

-- means for transmitting a signal or signals in response to the sound of the graffiti-making act (connections between sensors and computer 50 in Fig. 6 of Nesbitt); means (computer 50 of Nesbitt) for processing the signal or signals in response to the sound of the graffiti-making act.

6) Regarding claim 80, Nesbitt and Turner render obvious all of the claimed subject matter as in the consideration of claims 73 and 79.

7) Regarding claim 81, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 80, plus the consideration of claim 74.

8) Regarding claim 82, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 81, plus the consideration of claim 75.

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9) Regarding claim 83, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 81, plus the consideration of claim 76.

10) Regarding claim 84, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 81, plus the consideration of claim 77.

4. Claim 78 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nesbitt in view of Turner and Joao (US pat. #5,917,405).

1) Regarding claim 78, Nesbitt and Turner render obvious all of the claimed subject matter as in claim 73, except: the claimed wherein the one or more images of the perpetrator of the graffiti-making act are transmitted to the one or more remote entities over the Internet and the one or more entities include at least one of an Internet phone and an Internet device for receiving and viewing the transmitted one or more images of the perpetrator of the graffiti-making act.

While Nesbitt and Turner discloses using a remote communication link for transmission to the remote entities, Joao teaches the known use of Internet device at the remote location for receiving and viewing images transmitted over the Internet for monitoring a vehicle in a vehicle security system (Fig. 5B, col. 4, lines 41-55; col. 5, line 66 to col. 6, line 28; col. 9, lines 56-64).

In view of the teachings by Nesbitt, Turner and Joao, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the remote link for transmitting the images of the graffiti-making act perpetrator in a system such as taught by Nesbitt and Turner using a known Internet link such as taught by Joao for its well known characteristics of ready, existing and economic availability, and easy access.

Double Patenting

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5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 73-84 are rejected under the judicially created doctrine of obviousness-type

double patenting as being unpatentable over claims 1-72 of U.S. Patent No. 6,288,643. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Patented claims 1-81 met all of the claimed limitations of current claims 73-84, except: the claimed transmission of the images to the remote entities. However, patented claims 14 and 80 also claim the use of activity monitoring and recording cameras, and wireless communication device responsive to detection of the graffiti-making act. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to implement the activity monitoring and recording features using the wireless communication device as a remote monitoring, whereby the further claimed limitations such as the use of Internet, etc. are obvious as detailed in the above rejection.

Remarks

7. Application software of the electronic file of the current application did not label/arrange the preliminary amendment dated 7/24/03 properly, resulting in Examiner's error with the

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previous Office action considering canceled claims 1-72. Responsive to Applicant's comments filed 3/2/05, the current Office action is based on pending claims 73-84.


Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin C. Lee whose telephone number is (571) 272-2963.

The examiner can normally be reached on Mon -Fri 11:00Am-7:30Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin C. Lee
Primary Examiner
Art Unit 2632

B.L.